

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Notice of Proposed Rulemaking)	
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Appropriate Regulatory Treatment for)	CS Docket No. 02-52
Broadband Access to the Internet Over)	
Cable Facilities)	
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COMMENTS OF THE CITY OF POCATELLO, IDAHO

These comments are filed by The City of Pocatello in support of the comments filed by the Alliance of Local Organizations Against Preemption (the "Alliance"). Like the Alliance, The City of Pocatello believes that (a) local communities should be able to require cable operators to obtain additional authorizations to use and occupy public rights of way to provide cable services, and to enforce existing authorizations that have been granted for the service; (b) should be able to obtain fair and reasonable compensation for use and occupancy of the public rights of way to provide non-cable services; and (c) should be able to regulate cable companies in their provision of non-cable services, as provided under the Cable Act.

These comments will also provide information regarding the status of cable modem service in our community.

1. Our community and the status of cable modem service.

The City of Pocatello is a City in the State of Idaho with a population of 52,000. It is served by Cable One, which has approximately 14,500 subscribers. The cable system serving our community offers subscribers an expanded basic tier with over 50 channels, digital cable tier and cable modem service.

2. Our franchise and cable modem service.

Our franchise was issued in 1996 and did not directly address cable modem service. However, under our franchise the definition of gross revenues is broad enough to include cable modem service.

“For the purposes of this section, the term annual gross revenue includes, but is not limited to, revenues from cable services as defined by the Cable Act provided to consumers for a fee or other consideration which is attributable to the cable system; revenues from the provision of services, facilities or equipment required to or attributable to the provision of cable service to consumer or the operation of the cable system; revenues from the sale of all advertising cablecast upon the cable system revenues from carriage of any cable service; revenues received by the Grantee from home shopping services; and any other compensation received by the Grantee from any source and regardless of form, cash and non-cash attributable to the cable system.”

Pursuant to that provision, we were entitled to receive franchise fees on cable modem service. We received approximately \$8,000 in cable modem franchise fees in 2001. These payments were made in consideration of the grant of the franchise. Our franchise was written to permit the operator to provide both cable services and other services, as long as the operator complied with the franchise terms. We estimate that we will lose between \$2,000 to \$4,000 per month over the next five years depending on growth of cable modem if we cannot charge a fee on revenues from cable modem service.

3. How we regulate cable modem service.

We regularly receive complaints from customers regarding the services provided by cable operators. These include complaints about traditional video programming services and about cable modem services. Responding to these complaints requires significant staff time and effort.

There are many unique customer service problems associated with cable modem services. In addition, it is often difficult, if not impossible to separate regulation of cable modem service from the regulation of cable service in many critical respects:

- Cable modem service is marketed jointly with cable service. Subscribers to both video programming and cable modem service receive a discount on the cost of cable modem service.
- A single bill is sent for cable modem and cable services, so billing complaints involve both.
- Customer service calls go to a single number, so telephone answering policies affect both.

- A customer may call a single location to schedule installation of cable service and cable modem service, and customer complaints about installations and missed appointments may relate to both services.

As a result, when one service has problems, the quality of the other service can be affected. Customers are advised on their bill by the cable operator that they can call our office with complaints, and as far as we can tell, at no time does the operator advise the customer that protections accorded with respect to cable service do not apply with respect to cable modem service. In our view, there is a substantial and continuing need to protect consumers of cable modem service, in light of the complaints we receive, and because of its close tie to video services.

4. Our community and broadband deployment.

Our community believes it is very important to encourage broadband deployment, and to encourage development of broadband applications. We also believe that in order to achieve the promise of broadband, broadband has to be available to the entire community, as far as possible. We want to avoid knowledge and opportunity gaps created because some parts of the community have access to broadband information, while others do not. This is especially true for rural communities such as The City of Pocatello where there are few, if any, choices in broadband services.

To that end, our community devotes significant resources to take advantage of the information highway and to extend its benefits to all. Our local school district utilizes broadband services provided by the cable company for their local I-Net as does many other small businesses in town.

Respectfully submitted,

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